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LEHMAN, BEN J. 10-26-99 CHIASSON VS SHIPYARDS

HAHN & BOWERSOCK

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**CONDENSED TRANSCRIPT AND CONCORDANCE
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DEPOSITION, BEN J. LEHMAN, P.E., RADM USN (Ret.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
3
4
5 JOSEPH DANIEL CHIASSON and)
6 SUSAN ANN CHIASSON.)
7)
8 Plaintiffs.)
9)
10 vs.) Case No. BC198398
11)
12 YOOD SHIPYARDS, et al.,)
13)
14 Defendants.)
15
16
17 Deposition of: BEN J. LEHMAN, P.E., RADM USN (Ret.)
18 Taken on: October 26, 1999
19
20 Reported by: Joanna B. Brown, CSR No. 8570, RPR
21
22
23
24
25

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1 Deposition of BEN J. LEHMAN, P.E., RADM USN
2 (Ret.), taken before Joanna B. Brown, a Certified
3 Shorthand Reporter for the State of California, with
4 principal office in the County of Orange, commencing at
5 9:29 a.m., Tuesday, October 26, 1999, at the Law Offices
6 of Davis & Thomas, 1999 Avenue of the Stars, Suite 2310,
7 Los Angeles, California.
8
9 APPEARANCES OF COUNSEL:
10 DAVIS & THOMAS
11 FOR PLAINTIFFS: BY: JOSEPH D. DAVIS, ESQ.
12 1999 Avenue of the Stars
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17 FOR DEFENDANTS: BREIDENBACH, BUCKLEY, HUCHTING, MALM
18 & HAMBLET
19 BY: THOMAS C. CORLESS, ESQ.
20 611 West Sixth Street
21 Thirteenth Floor
22 Los Angeles, California 90017-3201
23 (213) 624-3431
24 (213) 624-3430 Fax
25
ALSO PRESENT: JOHN RUEBECK

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12 of Mr. Lehman's
13 curriculum vitae 10 107
14
15 2 23-pg. Xerox copy
16 of one page of notes
17 and a document entitled
18 "Safety and Health
19 Regulations for
20 Ship Repairing" 74 107
21 3 11-pg. Xerox copy
22 of Mr. Lehman's
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25 of the U.S.S. Yaluga's
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INFORMATION REQUESTED

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(None.)

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1 BEN J. LEHMAN, P.E., RADM USN (Ret.),
2 called as a witness by and on behalf of the Defendants,
3 and having been first duly sworn by the Certified
4 Shorthand Reporter, was examined and testified as follows:
5
6 EXAMINATION
7
8 BY MR. CORLESS:
9 Q Please state your name.
10 A Ben Lehman.
11 Q And what is your occupation?
12 A Consulting engineer, safety engineer.
13 Q Are you affiliated with any particular
14 company or firm at this point?
15 A Yes. The one that I'm affiliated with for
16 the purposes of giving — of engaging in anything with
17 regard to the legal profession is Mech. H-e-c-h, capital
18 E-I-e-x, capital T-e-x, Incorporated; the tax number
19 880230599.
20 Q Incidentally, you've been deposed before?
21 A Yes, a few times.
22 Q Approximately how many?
23 A Well, at least 200.
24 Q How many times have you testified in trial?
25 A At least 50.

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1 A I estimated they were one inch or less.
2 Admiral Horne said yesterday he thought a half inch.
3 No big disagreement.
4 Q Other than the deposition testimony of
5 Mr. Chiasson, are you aware of any evidence that indicates
6 that any insulation was removed from any of the steam
7 piping or hot water piping in the living compartments
8 during the work done at Todd Shipyards?
9 A No.
10 Q In the engineering areas, was there any
11 insulation that would have been removed other than the
12 insulation on the steam lines?
13 A What was the last thing you said?
14 Q Other than from the steam lines?
15 A Most certainly, they would have insulation on
16 the machinery themselves, on the turbines, on the pumps,
17 on the steam ends of the turbines, the pumps. So, in
18 addition to the lines, you have insulation on the hot
19 ports of the machinery and, of course, on the valves.
20 Q All that would have been asbestos-containing
21 insulation?
22 A Yes.
23 Q Did you know - I'm sorry.
24 Do you know whether the Navy had specified
25 that that insulation contained asbestos?

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1 A During that time period, the time period
2 previous to that, to the best of my knowledge, the Navy
3 specifications required asbestos-containing insulation.
4 Q And that would include on the steam lines and
5 hot water lines in the berthing areas?
6 A To the best of my knowledge, that's correct.
7 Well, when you say "hot water lines," now -
8 Q If, in fact, that was asbestos-containing
9 insulation, and you're not sure of that, right?
10 A On the hot water lines, I'm not sure of
11 that. Regarding the steam lines, yes.
12 Q Was there any other type of insulation used
13 in any other areas of the engineering rooms or the engine
14 rooms?
15 A I don't think so, but I don't know. After
16 all, I inspected it by means of a flashlight. So it was a
17 limited inspection. I don't think so.
18 Q Going back to your first opinion, what is
19 your understanding of Mr. Chiasson's recollections
20 regarding contamination in the living spaces?
21 A His recollection was the living spaces were
22 dirty. There was dust and dirt on the bunks every night.
23 It was constantly a dirty condition in the living spaces.
24 Q And overhaul, by its very nature, is a dirty
25 job, isn't it?

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1 A Overhaul is not necessarily a dirty job.
2 It's certainly not necessarily dirty with respect to the
3 crew's living spaces, on the contrary. If the crew's
4 living spaces are going to be involved, some positive
5 measures should be taken to keep them clean, the living
6 spaces, galley spaces, mess spaces; and if you can't do
7 that, you ought to take the crew off the vessel.
8 Q Is it your opinion that this crew should have
9 been removed from this vessel while at least the
10 insulation materials were being ripped out?
11 A I don't have that opinion. I think it could
12 have been kept clean if an effort had been made.
13 Q ~~But that was an alternative? Rather than~~
14 taking those efforts, they could have simply removed the
15 crew from the ship?
16 A Well, that would have made a difference.
17 You would still have to clean the places up before the
18 crew came back on board the ship.
19 Q It would have been the Navy's decision on
20 whether to remove the crew, wouldn't it?
21 A Not necessarily. Todd could have gone to the
22 Navy and requested that - said to the Navy, "Under the
23 circumstances under which we are working, we recognize
24 that protection of personnel is very difficult, and we
25 request that either you give us a change order to" -

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1 possibly a change order. That would have been something
2 negotiated - "possibly give us a change order to provide
3 a special protection for the crew, or you ought to take
4 the crew off." Todd could have gone to the Navy and
5 requested that.
6 Q What experience have you had in doing an
7 overhaul similar to that done on the Taluga at
8 Todd Shipyards?
9 A Well, as a planning and estimating officer
10 for the industrial manager, I had a lot of experience
11 doing that kind of thing. As a ship's superintendent, on
12 the kinds of ships for which I had major conversion
13 responsibility, it was possible to do the work required in
14 the superstructure, in the electronics spaces, without
15 impacting the crew's living spaces, to the best of my
16 recollection.
17 Q Why is that?
18 A Why?
19 Q Why couldn't it have been done without
20 inspecting the crew station?
21 A Because of the spaces up in the
22 superstructure and the electronics spaces, and again, we
23 did not have the -- the insulation involved was electrical
24 insulation and not --
25 Q Were you involved, personally, in any

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1 overhauls in the engineering spaces?
 2 A Yes, certainly.
 3 Q Where?
 4 A Brooklyn, Hunter's Point.
 5 Q When?
 6 A Well, Brooklyn in 1943 and '44;
 7 Hunter's Point in 1950 and '51 and the early part of '52.
 8 Q What kinds of ships?
 9 A Brooklyn, cruiser, commercial ship being
 10 modified to be a Navy transport, lots of destroyers.
 11 Q Were any ships - excuse me. Were any crews
 12 living on board any of those vessels during any of those
 13 overhauls?
 14 A Yes.
 15 Q Which ones?
 16 A Most of them.
 17 Q When - Mr. Lehman, when did you personally
 18 become aware of whether asbestos was hazardous?
 19 A Late 1970s.
 20 Q How did you learn of that?
 21 A Somewhere, I became aware of the fact that
 22 the New York Academy of Science had published some
 23 documents about the hazards of asbestos, and I was very
 24 interested. I got them at that point in time. One of the
 25 reasons I was interested is because I was aware of the

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1 fact that I had been exposed, significantly, over a period
 2 of years, personally.
 3 Q Because of your shipyard work?
 4 A Absolutely.
 5 Q Any other types of work?
 6 A No.
 7 Q During the whole time up until the late '70s
 8 when you were doing work in shipyards, you were not aware
 9 that the asbestos-containing materials in ships could be
 10 hazardous?
 11 A That's correct. I was not aware that it was
 12 any more hazardous than dust in general.
 13 Q Well, did you ever see that any precautions
 14 were taken to protect against the risk of asbestos in the
 15 shipyards up until the late 1970s?
 16 A Specific asbestos precautions with respect to
 17 asbestos, no. With regard to dusts, yes.
 18 Q How did you become aware that there were some
 19 risks associated with dusts?
 20 A The production workers were required by
 21 production safety to wear personal protection gear
 22 protecting against dusts.
 23 Q What do you mean by "production workers"?
 24 A I mean people working with their hands on the
 25 vessels as opposed to engineering personnel.

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1 Q Let's talk about the Navy vessels at this
 2 point. What precautions, in your experience, did the Navy
 3 personnel, either on board ships or in naval shipyards -
 4 what precautions did they take during overhauls in
 5 construction of ships to protect against the hazards of
 6 dusts?
 7 A During what period of time?
 8 Q Up until 1966.
 9 A Up until 1966?
 10 Q Yes.
 11 A Dust masks were certainly worn, and the major
 12 effort was to keep people away from where the shipyard
 13 work was going on, but if you couldn't do that, then dust
 14 masks were worn.
 15 Q Did you ever have any experience in making
 16 any decisions on what sorts of precautions should be made
 17 along these lines?
 18 A In the 1950s, the answer was no. I would say
 19 the answer was, no, I did not have enlisted personnel
 20 under my control during any period of time, and therefore,
 21 I did not make those decisions.
 22 Q When did you first start seeing dust masks
 23 being worn on board naval ships during repairs or
 24 construction?
 25 A I don't recall. I really don't recall.

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1 Q Was it clear back during World War II?
 2 A No.
 3 Q Was it sometime in the 1950s?
 4 A Possibly.
 5 Q Sometime during the 1960s?
 6 A Possibly. I just don't recall. I was not
 7 responsible for telling the people to wear this equipment,
 8 and I wasn't responsible for telling them where they had
 9 to be during their working period. I just don't recall.
 10 Q What types of dust masks did you see being
 11 worn?
 12 A I don't know since I wasn't responsible for
 13 their procurement or ordering people to wear them. I
 14 didn't get involved in that.
 15 Q Did you ever see any warnings posted on any
 16 Navy ships prior to 1966 regarding the hazards of asbestos?
 17 A No.
 18 Q Did you ever see any warnings anywhere on a
 19 Navy ship regarding the hazards of dust prior to 1966?
 20 A No. Generally, in an operational situation,
 21 you wouldn't have a lot of dust. So that all existed in
 22 the shipyard.
 23 Q During the shipyard's -
 24 A No. It would be up to the - it would be
 25 up - in general, people would just be told to stay away.